

SC NAACP v. Alexander,
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

Exhibit 2

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION
4 CASE NO. 3:21-CV-03302-MBS-TJH-RMG

5 THE SOUTH CAROLINA STATE CONFERENCE OF
6 THE NAACP, AND TAIWAN SCOTT, ON BEHALF
7 OF HIMSELF AND ALL OTHER SIMILARLY
8 SITUATED PERSONS,

9 Plaintiffs,

10 vs.

11 THOMAS C. ALEXANDER, HENRY D. MCMASTER,
12 IN HIS OFFICIAL CAPACITY AS GOVERNOR OF
13 SOUTH CAROLINA; HARVEY PEELER, IN HIS
14 OFFICIAL CAPACITY AS PRESIDENT OF THE
15 SENATE; LUKE A. RANKIN, IN HIS OFFICIAL
16 CAPACITY AS CHAIRMAN OF THE SENATE
17 JUDICIARY COMMITTEE; JAMES H. LUCAS, IN
18 HIS OFFICIAL CAPACITY AS SPEAKER OF THE
19 HOUSE OF REPRESENTATIVES; CHRIS MURPHY,
20 IN HIS OFFICIAL CAPACITY AS CHAIRMAN OF
21 THE HOUSE OF REPRESENTATIVES JUDICIARY
22 COMMITTEE; WALLACE H. JORDAN, IN HIS
23 OFFICIAL CAPACITY AS CHAIRMAN OF THE
24 HOUSE OF REPRESENTATIVES ELECTIONS LAW
25 SUBCOMMITTEE; HOWARD KNABB, IN HIS
 OFFICIAL CAPACITY AS INTERIM EXECUTIVE
 DIRECTOR OF THE SOUTH CAROLINA STATE
 ELECTION COMMISSION; JOHN WELLS, JOANNE
 DAY, CLIFFORD J. ELDER, LINDA MCCALL,
 AND SCOTT MOSELEY, IN THEIR OFFICIAL
 CAPACITIES AS MEMBERS OF THE SOUTH
 CAROLINA STATE ELECTION COMMISSION,

 Defendants.

20 DEPOSITION OF: ANDREW THEODORE FIFFICK
21 (Appearing via VTC)

22 DATE: July 21, 2022

23 TIME: 10:10 a.m.

1 **LOCATION:** Robinson Gray, LLC
 1310 Gadsden Street
2 Columbia, South Carolina
3 **TAKEN BY:** Counsel for the Plaintiffs
4 **REPORTED BY:** KAREN M. ERNST, CSR
 (Appearing via VTC)

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1 never known anybody who has done that.

2 Q. Do you have any basis to believe that
3 racially polarized voting exists in South Carolina?

4 A. I haven't considered it. I've done no
5 analysis. There's nothing I have that I can tell
6 you is dispositive of that or not. We didn't do
7 that.

8 Q. Like with respect to the 2020
9 presidential data, did you or other members of the
10 team developing congressional maps of legislators
11 have data to conduct racially polarizing voting
12 analyses?

13 A. Again, since I don't know exactly how
14 you conduct one of those analyses, I don't know
15 whether we had sufficient information to do it.

16 Q. You hired Will Roberts because you
17 believed that he had the expertise to develop maps
18 for the Senate; is that correct?

19 A. Yes, ma'am. He's a GIS operator, and
20 he's been drawing maps for 20 years or so.

21 Q. And you hired Mr. Terreni and Mr. Gore
22 because you and members of the Senate collectively
23 believed that with their experience, they could
24 educate you, guide you on the legal compliance of
25 maps; is that fair?

1 A. That's correct.

2 Q. Is it possible for the Senate to have
3 hired someone to examine racially polarized voting
4 patterns, any racially polarized voting patterns in
5 South Carolina?

6 A. Is it possible that we could have, or
7 is it possible we did?

8 Q. Is it possible that you could have?

9 A. Certainly. We could hire anybody to do
10 anything.

11 Q. During the public hearings that you
12 participated in, the ten public hearings --
13 actually, let me correct that. Were you -- let me
14 ask you a question before I get there.

15 Were you present at all ten hearings
16 that were held over the summer?

17 A. I believe I was, yeah.

18 Q. During the ten public hearings you were
19 present at and the legislative hearings that you
20 were present at, were you aware of legislators
21 and/or members of the public asking that racially
22 polarized voting analysis be conducted?

23 A. I do know -- I remember some people in
24 the public asking for it. I don't remember whether
25 or not members asked.

1 If anyone did it, maybe it was Senator
2 Harpootlian maybe at some point, I think. But it
3 was not in a direct -- it was not walk into Andy's
4 office and say, you need to go hire somebody to do
5 this. My recollection is more of rhetorical
6 argument in a go-between amongst senators, if it
7 happened at all.

8 Q. And no one in the map room asked you to
9 conduct a racially polarized voting analysis?

10 A. I don't remember anybody ever sitting
11 in the map room saying population for polarized
12 voting analysis or asking anyone else in the map
13 room to do that. I don't --

14 Q. And it's -- oh, I'm sorry.

15 A. I said I don't recall that, no.

16 Q. And it's your position that Senator
17 Harpootlian may have been the person who asked for
18 it during public proceedings?

19 A. It could be, and because he was doing
20 his own thing, doing his own map, all that, I mean,
21 I guess we all figured he was doing his own
22 racially polarized voting analysis. I guess he
23 wanted to produce it --

24 Q. And you're not aware -- oh, I'm sorry.

25 A. I'm not aware -- I'm sorry. Go ahead.

1 recollection -- I guess we'd call this an eyeball
2 test -- I don't remember it being possible.

3 Q. And do you think you can make a
4 determination about whether there can be a majority
5 black district based upon an eyeball view?

6 A. Well, I mean, looking at it, looking at
7 the map and where the population was, I just don't
8 think we thought -- and this is in Section 2 House
9 so it would be much more in Charlie's wheelhouse,
10 but I don't think -- and also no one ever came to
11 us and asked us to do one either, so I think those
12 are the factors that kind of led us down that path.
13 I don't recall anybody ever asking us to do that.

14 Q. But you are not aware of anyone
15 affirmatively attempting to draw an additional
16 majority black district?

17 A. No. I don't recall ever doing that,
18 no.

19 Q. Was the political data, the 2020
20 presidential election data considered during the
21 development of this initial Staff Plan?

22 A. I believe so, yes.

23 Q. Was a racially polarized voting
24 analysis conducted during consideration of this
25 initial Staff Plan?

1 MR. TYSON: Objection; asked and
2 answered numerous times.

3 THE WITNESS: No. Not to my knowledge,
4 no.

5 BY MS. ADEN:

6 Q. Who would have been responsible for
7 making the assessment that the initial Staff Plan
8 was not a racial gerrymander?

9 A. We would have relied upon Charlie
10 Terreni and John Gore.

11 Q. What about whether the districts were
12 contiguous? Who would have made that assessment in
13 the initial Staff Plan?

14 A. It would have probably been -- Will
15 drew the map so he could see whether things were
16 produced or not. So we all looked at the map, but
17 he was actually drawing a map so that's pretty much
18 a no brainer to draw a map that's contiguous.

19 Q. And what about communities of interest?
20 Who would have taken responsibility to ensure that
21 those kind of guideline criteria respecting
22 communities of interest was respected, reflected in
23 the initial Staff Plan?

24 A. I think it would have been a kind of
25 everybody in the room discussion.

1 Q. And what about constituent consistency?
2 Who would have been responsible for making that
3 determination?

4 A. Again, everybody in the room
5 discussion. And by seeing the map, you know, which
6 didn't change a lot of lines -- just about anybody
7 could make that initial change -- but again, this
8 was a first staff map so I don't know that we
9 really were cognizant of everything because we knew
10 it was going to change. We knew the numbers were
11 going to change it.

12 Q. And who would have been responsible for
13 determining whether the plan minimized divisions of
14 counties, cities and towns, and/or splits of VTDs?

15 A. I think those are again numbers that
16 really would have happened but not determined.
17 It's just what the numbers were.

18 Q. And district compactness?

19 A. Compactness?

20 Q. District compactness.

21 A. Yeah. I mean, I guess, you know,
22 everybody in the room kind of again looked at it
23 knowing that we were going to have many changes.
24 And all this would have gone on the back end up to
25 Charlie Terreni and John Gore.

1 Q. Have you heard of the term
2 effectiveness analysis?

3 A. I have not. Well, I can't place it. I
4 don't recall.

5 Q. During discussion of the initial Staff
6 Plan or development of the initial Staff Plan, was
7 there discussion about increasing, decreasing, or
8 maintaining the black voting age population in
9 particular districts?

10 A. No. I mean, I think everyone was
11 cognizant that, you know, drastic changes in a
12 staff map -- drastic changes meaning that we were
13 requested to produce a least change map was always
14 undoubtedly with problems. In answering all these
15 questions I'm giving, that was something we thought
16 about.

17 Q. Did you set out to preserve the same
18 number of majority-minority districts in the
19 initial Staff Plan as existed in the 2011 Staff
20 Plan?

21 A. Because it was a least change map plan,
22 I think that was sort of the necessary result that
23 came about.

24 Q. What role did partisan considerations
25 play in the development of the initial Staff Plan?

CERTIFICATE OF REPORTER

I, Karen M. Beckman, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete record
to the best of my ability.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed my official seal this 26th day of July,
2022, at Myrtle Beach, Horry County,
South Carolina.



Karen M. Beckman
Court Reporter
My Commission expires
September 2, 2025

1 South Carolina State Conference Of Naacp v. Alexander, Thomas C. Et Al
2 Andrew Theodore Fiffick (#5327918)

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24 Andrew Theodore Fiffick Date

25 _____

1 South Carolina State Conference Of Naacp v. Alexander, Thomas C. Et Al
2 Andrew Theodore Fiffick (#5327918)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Andrew Theodore Fiffick, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 Andrew Theodore Fiffick

Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

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19 NOTARY PUBLIC
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